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18 SAXON MORTGAGE SERVICES, INC.

19 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA

20 MARIE GAUDIN, individually, and on
21 behalf of others similarly situated,

22 Plaintiff,

23 v.

24 SAXON MORTGAGE SERVICES, INC. a
Texas corporation, and Does 1-100,

25 Defendants.
26
27

Case No. 11-cv-01663-JST

CLASS ACTION

JOINT CASE MANAGEMENT
STATEMENT

Hon. Jon S. Tigar

1 Pursuant to the February 11, 2013 Reassignment Order, and having met and conferred
2 on these matters, the parties hereby submit the following Joint Case Management Statement:

3 **a. Date the Case Was Filed**

4 The case was filed on April 4, 2011.

5 **b. List or Description of Each Party**

6 The parties are: (1) Plaintiff Marie Gaudin (“Plaintiff”), on behalf of herself and as
7 putative class representative, and (2) Defendant Saxon Mortgage Services, Inc. (“Saxon”) and
8 DOES.

9 **c. Summary of Claims**

10 Plaintiff brings four claims: (1) Breach of Contract (including covenant of good faith);
11 (2) Restitution/rescission; (3) Rosenthal Fair Debt Collections Practices Act, Cal. Civ. Code
12 §§ 1788 *et seq.* (“Rosenthal Act”); and (4) Unfair Competition Law, Cal. Bus. & Prof. Code
13 §§ 17200 *et seq.* (“UCL”). There are no counter-claims, cross-claims, or third party claims.

14 **d. Brief Description of Underlying Events**

15 In about June 2009, Plaintiff and Saxon executed a Trial Period Plan (TPP) document in
16 connection with her efforts to obtain a permanent home loan mortgage modification pursuant to
17 the federally sponsored Home Affordable Modification Program (HAMP). Plaintiff proceeded
18 to make trial period payments to Saxon with the expectation that her loan would be permanently
19 modified pursuant to HAMP, but Saxon denied permanent modification.

20 It is Saxon’s position that the TPP did not promise a permanent modification and
21 Plaintiff did not qualify for one.

22 **e. Description of Relief Sought**

23 Plaintiff, on behalf of herself and the putative class, seeks (1) restitution of the trial
24 payments made by the Class, as restitution or damages, (2) nominal or benefit-of-bargain
25 damages for breach of contract, (3) statutory damages pursuant to the Rosenthal Act, and/or (3)
26 injunctive orders to provide prospective mortgage relief or review in appropriate cases pursuant
27 to the UCL.

1 Saxon denies that Plaintiff has sustained any injury or damages, and disputes Plaintiff's
2 computation of damages.

3 **f. Status of Discovery**

4 Pre-certification discovery has progressed through the depositions of Saxon's 30(b)(6)
5 designees and Plaintiff. Certain follow up discovery to Saxon is pending, and Saxon has agreed
6 to provide substantive responses prior to the filing of Plaintiff's motion for class certification as
7 scheduled on April 15, 2013. Merits discovery unrelated to class certification has been deferred
8 pending the outcome of the certification motion.

9 **g. Procedural History**

10 The Court has previously ruled on two motions by Saxon to dismiss the complaint
11 pursuant to Rule 12(b). See Dkt. No. 36, (*Gaudin v. Saxon Mortg. Servs.*, 820 F. Supp. 2d 1051,
12 1053 (N.D. Cal. 2011)) and Dkt. No. 51 (*Gaudin v. Saxon Mortg. Servs.*, 2011 U.S. Dist. LEXIS
13 132957 (N.D. Cal. Nov. 17, 2011)). There have been no other motions, and no ADR proceedings,
14 settlement conferences, appellate proceedings, or magistrate referrals.

15 **h. Deadlines in Place Before Reassignment**

16 Plaintiff's Motion for Class Certification is due April 15, 2013, and the class
17 certification hearing was set for June 20, 2013. Per the briefing schedule, Saxon's opposition is
18 due May 30, 2013, and Plaintiff's Reply Brief is due June 14, 2013.

19 **i. Any Requested Modification of Deadlines**

20 None.

21 **j. Whether the Parties Consent to a Magistrate Judge for Trial**

22 No.

23 **k. Whether There Exists a Need for an Immediate Case Management**
24 **Conference**

25 No.

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I. Statement of Any Immediate Relief Sought Regarding the Case Schedule

None.

DATED: February 26, 2013 JENKINS MULLIGAN & GABRIEL LLP
LAW OFFICE OF PETER FREDMAN

By: /s/ Peter Fredman

PETER FREDMAN,
Attorneys for Plaintiff,
MARIE GAUDIN

DATED: February 26, 2013 SEVERSON & WERSON,
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By: /s/ Erik Kemp

ERIK KEMP
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DATED: February 26, 2013 BINGHAM MCCUTCHEN LLP

By: /s/ Laila Abou-Rahme

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